Privacy Act and FOIA Comparison Chart		
Issue	**Privacy Act**	**FOIA**
When was the Act enacted?	1974; enacted December 31, 1974.	1966; enacted July 4, 1967.
What is the federal statute?	5 U.S.C. Section 552a (as amended).	5 U.S.C. Section 552 (as amended).
What's the purpose of the Act?	To protect the privacy of individuals included in a System of Records (SOR). A Privacy Act records system is a group of records (more than one) that are either in paper or electronic form and which contains information about an individual AND is designed to be retrieved by a name or other personal identifier. If you only have one document, or your file contains publicly available information, it is not considered to be a group of records.	To provide individuals with a right to access records in the possession of the federal government. Before submitting FOIA requests, individuals should ensure that the information they seek is not already in the public domain. Under FOIA, the government may withhold information if it falls under one of the nine exemptions or three exclusions contained in FOIA. Exemption 6 which addresses personal privacy, requires that we balance the public interest with the privacy interest. If the public interest in the information outweighs the privacy interest, the information will be released. If the privacy interest outweighs the public interest, the information will be withheld.
Who can request records?	U.S. citizens or aliens lawfully admitted for permanent residence, third parties with written permission of the subject individual, and others with a valid need-to-know or who are listed in the SOR under the "Routine Uses for Disclosure."	Anyone.
Can records be corrected or amended?	Yes, only factual information. Agencies must acknowledge the request within 10 days. If the request is denied, the agency must respond to review the request within 30 days.	No.
Can a personal statement of disagreement be placed in the file?	Yes.	No.

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What agencies are covered by the Act?	Those within the Executive Branch.	Those within the Executive Branch.
What are the time limits for agencies to respond to a request for records under the Act?	None, however you must provide the records as soon as practical.	20 working days, which may be extended an additional 10 days.
What records are subject to the Act?	Personal information maintained in a Systems of Record and accessed by a personal identifier except for records maintained by the CIA, for national security, or for law enforcement.	All records kept by Executive Branch.
What information can be obtained?	"Any item, collection, or group of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph." (5 U.S.C. Section 552a(a)(4))	Any record maintained by the Executive Branch unless a FOIA Exemption applies.
If a part of a record is excluded from release, is the entire record excludable?	Yes. If the information would be released under FOIA, it cannot be denied under the Privacy Act.	No. You must review and redact information that cannot be released under FOIA.
What are the time limits for administrative appeals of the initial request for records?	There are none. Since this is a first party request, third parties are not allowed access.	The Department of Health and Human Services (DHHS) FOIA regulations prescribe a time limit of 30 days to request an administrative appeal of the denial of information. The appeal decision must be issued within 20 working days and can be extended by 10 days.
Can judicial appeals be filed? If so, what are the time limits?	Appeals can be filed in the district court of residence, in Washington, D.C. or the district court of the agency which holds the records. A suit must be filed within two years from the date on which the basis of the lawsuit arose.	Appeals can be filed in the district court of residence, in Washington, D.C. or the district court of the agency which holds the records. The statute of limitation is six years.

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Can I charge fees to search for records?	You can only charge fees for the cost to copy the records.	Yes, the Act provides for the agency to recover part of the cost associated with responding to a request. Depending upon who the requester is, fees may be charged for the review, search and duplication of records sent to the requester. Although we cannot charge for the time it takes an employee to make a copy of the records, we can bill at an hourly rate for the time it takes us to search for and review the records.
Can penalties be assessed if access is denied or if records are improperly accessed/disclosed?	Yes. Civil remedies can apply to the agency. In addition, criminal penalties can apply to the individual. Misuse of personal information can result in a fine of up to $5,000 plus court costs, and the conviction of a misdemeanor if it can be shown an agency employee knowingly released records improperly to a person not entitled to receive them, willfully maintained a Privacy Act system before publishing it in the Federal Register, or knowingly requested or obtained a record about an individual under false pretenses.	No. Litigation and attorney fees can be assessed as costs, not penalties. There is no individual liability under the FOA. A court may hold an individual in contempt if a release order is not obeyed but this would be a judicial action, not a penalty under the statute.